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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/317,807 05/24/99 KATZ

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EXAMINER

LM01/1027

LYON & LYON LLP  
633 WEST FIFTH STREET 47TH FLOOR  
LOS ANGELES CA 90071

WOO, S

ART UNIT

PAPER NUMBER

2743

DATE MAILED:

10/27/99

*3*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/317,807

Applicant(s)  
Katz

Examiner  
Stella Woo

Group Art Unit  
2743



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### DETAILED ACTION

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,351,285. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 in the continuation is broader than the ones in the patent, *In re Van Ornum and Stang*, 214 USPQ 761. Claim 1 of the present invention is the same as claim 1 of the patent except that it does not specify the call data including DNIS signals. Therefore, claim 1 of the present invention is broader than claim 1 of the patent.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Masson et al. (USPN 4,908,850, hereinafter "Masson").

Masson discloses an interface control system (Fig. 2) comprising:

call data means (channel banks 72);

selection means (system selects from a plurality of different applications ranging from simple information dissemination to automatic order entry with credit verification, order entry including operator assistance; col. 2, lines 40-49; col. 5, lines 37-48);

interconnect switch means (digital cross-connect circuit 70; col. 5, lines 49-58).

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the article entitled "The AT&T Multi-Mode Voice systems - Full Spectrum Solutions for Speech Processing Applications" by Hester et al. (hereinafter "Hester").

Hester discloses an interface control system (note Fig. 1) comprising:

call data means (trunk interface circuits receive Touch Tone signals and DNIS (page 2, fourth paragraph - page 3, second paragraph);

selection means (selects from many different services and provides connection to live operators; page 3, second paragraph; page 4, third paragraph, lines 1-3);

interconnect switch means (voice switch, Fig. 1).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Szlam et al. show another interface control system with live operator stations.

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7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 308-9051, (for formal communications intended for entry)

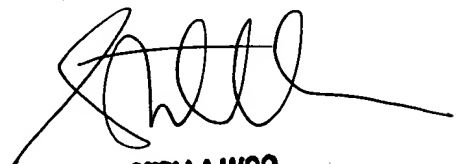
**Or:**

(703) 305-9508, (for informal or draft communications, please label

"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella Woo whose telephone number is (703) 305-4395 and can normally be reached from 6:30 a.m. until 2:00 p.m. on Monday, Wednesday, Friday, and from 6:30 a.m. until 10:30 a.m. on Tuesday and Thursday.



**STELLA WOO  
PRIMARY EXAMINER**

October 25, 1999